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HOUSE BILL 63

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Larry A. Larrañaga

FOR THE

WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO WATER; REQUIRING STATE ENGINEER REVIEW AND APPROVAL
FOR THE CONSTRUCTION AND OPERATION OF DAMS; PROVIDING FOR
EXCEPTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 72-5-32 NMSA 1978 (being Laws 1941,
Chapter 126, Section 25, as amended) is amended to read:

"72-5-32. CONSTRUCTION AND OPERATION OF DAMS [~~EXCEEDING
TEN FEET IN HEIGHT~~]--STATE ENGINEER AUTHORITY.--

A. Except as provided in Subsection D of this
section, any person, association or corporation, public or
private, the state or the United States [~~hereafter~~] intending
to construct a dam shall [~~meet the requirements of filing~~] file
applications for appropriations and use of water pursuant to
Section 72-5-1, 72-5-22, 72-5-23 or 72-5-24 NMSA 1978.

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1 B. Any person, association or corporation, public
2 or private, the state or the United States intending to
3 construct or operate a dam [~~that exceeds ten feet in height~~
4 ~~from the lowest natural ground surface elevation to the crest~~
5 ~~of the dam or impounds more than ten acre-feet of water]~~ shall
6 submit [~~on a form prescribed by the state engineer~~] detailed
7 plans to the state engineer for approval before construction or
8 operation of the dam, except for a dam that:

9 (1) is less than twenty-five feet in height
10 from the lowest natural ground surface elevation at the
11 downstream toe of the dam to the crest of the dam and has a
12 storage capacity of less than fifty acre-feet of water;

13 (2) is less than six feet in height from the
14 lowest natural ground surface elevation at the downstream toe
15 of the dam to the crest of the dam, regardless of storage
16 capacity; or

17 (3) has a storage capacity of fifteen acre-
18 feet or less of water, regardless of height.

19 C. If the state engineer finds that the dam design
20 [~~is~~] and operational plan are safe, [~~he~~] the state engineer
21 shall approve the plans [~~provided that this section shall not~~
22 ~~apply to erosion control structures whose maximum storage~~
23 ~~capacity does not exceed ten acre-feet and are constructed for~~
24 ~~the sole purpose of sediment control. An erosion control~~
25 ~~structure shall not impound surface water in any amount for~~

1 ~~fishing, fish propagation, recreation or aesthetic purposes,~~
2 ~~which shall require a permit pursuant to Section 72-5-1 NMSA~~
3 ~~1978].~~

4 D. Filing an application for the appropriation and
5 use of water is not required for the construction or operation
6 of a flood or erosion control dam; provided that a flood or
7 erosion control dam shall not store water for more than
8 ninety-six hours unless a longer duration time is authorized by
9 the state engineer and water stored shall not be placed to any
10 beneficial use unless specifically authorized by the state
11 engineer.

12 E. The state engineer shall determine how the
13 height, storage capacity and storage duration for all dams are
14 calculated or measured and shall prescribe the form in which
15 dam design plans and operational plans are submitted."

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